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UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW
Working Group on
International Payments
Twenty-third session
New York, 3-13 September 1991

PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda
3. Preparation of a legal guide on drawing up contracts in international countertrade transactions
4. Other business
5. Adoption of the report

Notes on the provisional agenda

1. The Commission, at its nineteenth session (1986), in the context of its discussion of a note by the Secretariat entitled "Future work in the area of the new international economic order" (A/CN.9/277), considered the topic of countertrade. There was considerable support in the Commission for undertaking work on the topic, and the Secretariat was requested to prepare a preliminary study on the subject. 1/

2. At its twenty-first session (1988), the Commission had before it a report entitled "Preliminary study of legal issues in international countertrade" (A/CN.9/302). The Commission made a preliminary decision that it would be desirable to prepare a legal guide on drawing up countertrade contracts. In order for the Commission to decide what further action might be taken, the Commission requested the Secretariat to prepare for the twenty-second session of the Commission a draft outline of such a legal guide. (See A/43/17, paras. 32-35.)

1/ Report of the United Nations Commission on International Trade Law on the work of its nineteenth session, Official Records of the General Assembly, Forty-first Session, Supplement No. 17 (A/41/17), para. 243.

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3. At its twenty-second session (1989), the Commission considered the report entitled "Draft outline of the possible content and structure of a legal guide on drawing up international countertrade contracts" (A/CN.9/322). It was decided that such a legal guide should be prepared by the Commission, and the Secretariat was requested to prepare for the next session of the Commission draft chapters of the legal guide. (See A/44/17, paras. 245-249.)

4. At its twenty-third session (1990), the Commission considered the following materials prepared by the Secretariat: a proposed structure of the legal guide (A/CN.9/332, para. 6); an outline of the introductory chapter to the legal guide (A/CN.9/332/Add.1); draft chapter II, "Scope and terminology of legal guide" (A/CN.9/332/Add.1); draft chapter III, "Contracting approach" (A/CN.9/332/Add.2); draft chapter IV, "General remarks on drafting" (A/CN.9/332/Add.3); draft chapter V, "Type, quality and quantity of goods" (A/CN.9/332/Add.4); draft chapter VI, "Pricing of goods" (A/CN.9/332/Add.5); draft chapter IX, "Payment" (A/CN.9/332/Add.6); and draft chapter XII, "Security for performance" (A/CN.9/332/Add.7). Draft chapter VII, "Fulfilment of countertrade commitment" (A/CN.9/332/Add.8), was submitted to but not considered by the Commission. A summary of the discussion in the Commission on the draft chapters (A/CN.9/332/Add.1-7) is contained in annex I to the report of the Commission on the work of its twenty-third session (A/45/17).

5. There was general agreement in the Commission with the overall approach taken in preparing the draft chapters, both as to the structure of the legal guide and as to the nature of the description and advice contained therein (A/45/17, para. 16). The Commission decided that the remaining draft chapters, which it requested the Secretariat to prepare, should be submitted, together with draft chapter VII, "Fulfilment of countertrade commitment" (A/CN.9/332/Add.8), to the Working Group on International Payments. The Commission also requested the Secretariat to redraft the chapters considered by it at its twenty-third session and the chapters to be submitted to the Working Group on International Payments in the light of the discussion at those sessions. The Commission decided that the final text of the legal guide should be submitted to its twenty-fifth session, to be held in 1992. (See A/45/17, paras. 17 and 18.)

6. The Working Group is composed of all States members of the Commission. These are:

Argentina, Bulgaria, Cameroon, Canada, Chile, China, Costa Rica, Cuba, Cyprus, Czechoslovakia, Denmark, Egypt, France, Germany, Hungary, India, Iran (Islamic Republic of), Iraq, Italy, Japan, Kenya, Lesotho, Libyan Arab Jamahiriya, Mexico, Morocco, Netherlands, Nigeria, Sierra Leone, Singapore, Spain, Togo, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yugoslavia.

Item 1. Election of officers

The Working Group, in accordance with its practice at previous sessions, may wish to elect a Chairman and a Rapporteur.

Item 3. Preparation of a legal guide on drawing up contracts in international countertrade transactions

The following documents will be made available at the session:

(a) Documents submitted to the Working Group:

(i) Draft legal guide on drawing up contracts in international countertrade transactions (A/CN.9/WG.IV/WP.51), report of the Secretary-General; this report recapitulates the work on the draft legal guide so far and sets out in paragraph 9 the revised proposed structure of the legal guide; the structure proposed in this report supersedes the structure proposed in paragraph 6 of document A/CN.9/332);

(ii) Draft chapter VII, "Fulfilment of countertrade commitment" (A/CN.9/332/Add.8), which the Commission referred to the Working Group;

(iii) Draft chapter VIII, "Participation of third parties" (A/CN.9/WG.IV/WP.51/Add.1);

(iv) Draft chapter X, "Restrictions on resale of goods" (A/CN.9/WG.IV/WP.51/Add.2);

(v) Draft chapter XI, "Liquidated damages and penalties" (A/CN.9/WG.IV/WP.51/Add.3);

(vi) Draft chapter XIII, "Problems in completing countertrade transaction" (A/CN.9/WG.IV/WP.51/Add.4);

(vii) Draft chapter XIV, "Choice of law" (A/CN.9/WG.IV/WP.51/Add.5);

(viii) Draft chapter XV, "Settlement of disputes" (A/CN.9/WG.IV/WP.51/Add.6);

(ix) Sample draft illustrative provisions for the legal guide (A/CN.9/WG.IV/WP.51/Add.7).

(b) Documents relating to the draft chapters of the legal guide that were considered by the Commission at its twenty-third session in 1990:

(i) Draft legal guide on drawing up contracts in international countertrade transactions (A/CN.9/332), report of the Secretary-General;

(ii) Outline of chapter I, "Introduction to legal guide" and draft chapter II, "Scope and terminology of legal guide" (A/CN.9/332/Add.1);

(iii) Draft chapter III, "Contracting approach" (A/CN.9/332/Add.2);

(iv) Draft chapter IV, "General remarks on drafting" (A/CN.9/332/Add.3);

(v) Draft chapter V, "Type, quality and quantity of goods" (A/CN.9/332/Add.4);

(vi) Draft chapter VI, "Pricing of goods" (A/CN.9/332/Add.5);

(vii) Draft chapter IX, "Payment" (A/CN.9/332/Add.6);

(viii) Draft chapter XII, "Security for performance" (A/CN.9/332/Add.7);

(ix) Draft chapter XII, "Security for performance" (A/CN.9/332/Add.8);

(x) Report of the United Nations Commission on International Trade Law on the work of its twenty-third session, New York, 25 June - 6 July 1990 (A/45/17).

Item 5. Adoption of the report

The Working Group may wish to adopt, at the close of its session, a report for submission to the twenty-fifth session of the Commission.

Meetings

The session of the Working Group will take place at the United Nations Headquarters, New York. Meetings are scheduled from 3 to 6, and from 9 to 13, September 1991. No meeting will be scheduled for Thursday, 12 September, in order to allow for the preparation of the draft report of the session. Meeting hours will be from 10:00 to 13:00 and from 15:00 to 18:00, except on Tuesday, 3 September, when the session will commence at 10:30. It should be noted that Monday, 2 September, is a legal holiday in New York and that no meeting has been scheduled for that day.